

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)



TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/622,776	
	Filing Date	07/21/2003	
	First Named Inventor	HAGANO et al.	
	Group Art Unit	1751	
	Examiner Name	Vijayakumar, Kallambella M	
		ATTN: Paul Shanowski, Office of Petitions	
		Attorney Docket Number	26D-010-RCE

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund	<input checked="" type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 2px;">Renewed Petition under 37 C.F.R. § 1.181(a)</div> <div style="border: 1px solid black; padding: 2px;">Copy of decision on petition pursuant to 37 C.F.R. § 1.181(a) mailed on September 12, 2007</div> <div style="border: 1px solid black; padding: 2px;">Copy of Petition under 37 C.F.R. § 1.181(a) for re-mailing of notice of allowance and re-start of issue fee due date, originally filed on June 13, 2007</div> <div style="border: 1px solid black; padding: 2px;">New lighter copy of docket record provided in Exhibit A (Posz Law Group case tracking system) and copy of Exhibit B (USPTO incoming log)</div>
<input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Posz Law Group, PLC DAVID G. POSZ (Reg. No. 37,701)
Signature	
Date	September 20, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HAGANO

Atty. Dkt.: 26D-010-RCE

Serial No.: 10/622,776

Group Art Unit: 1751

Filed: July 21, 2003

Examiner: Vijayakumar, Kallambella M

Title: RESIN MEMBER AND METHOD OF
MANUFACTURING THE SAME

Date of Allowance: January 24, 2007
Confirmation No.: 4241

Attn: OFFICE OF PETITIONS
PAUL SHANOSKI, Senior Attorney

Date: September 20, 2007

Commissioner for Patents
Alexandria, VA 22314

RENEWED PETITION UNDER 37 C.F.R. § 1.181(a)

In response to a Decision on Petition pursuant to 37 C.F.R. § 1.181(a) mailed on September 12, 2007, Applicants respectfully request an expedited grant of the Petition Under 37 C.F.R. § 1.181(a) for Re-mailing of Notice of Allowance and Re-start of Issue Due Date filed on June 13, 2007.

Applicants hereby provide the Office of Petitions with a copy of the above-referenced as-filed Petition Under 37 C.F.R. § 1.181(a) for Re-mailing of Notice of Allowance and Re-start of Issue Due Date and attachments including a new lighter copy of the docket record provided in Exhibit A (Posz Law Group Case Tracking System).

Although no additional fees are believed to be due, authorization is hereby given to charge any unforeseen fees to deposit account 50-1147.

Respectfully submitted,



David G. Posz
Reg. No. 37,701

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(703) 707-9110 (phone)
Customer No. 23400



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Hagano et al.	:	
Application No. 10/622,776	:	DECISION ON PETITION
Filed: July 21, 2003	:	PURSUANT TO
Attorney Docket No. 26D-010	:	37 C.F.R. § 1.181(A)
Title: RESIN MEMBER AND METHOD	:	
OF MANUFACTURING THE SAME	:	

BACKGROUND

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed June 13, 2007, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees¹. Accordingly, the above-identified application became abandoned on April 25, 2007. A Notice of Abandonment was mailed on May 23, 2007.

RELEVANT PORTION OF THE MPEP

MPEP §711.03(c)(I)(A) sets forth, *in toto*:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a

¹ See MPEP § 710.02(e).

Decision on Petition pursuant to 37 C.F.R. § 1.181(a)

petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement (emphasis added). For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment because it is incomplete.

Petitioner has included a statement that a thorough search of the file jacket and docket records were conducted.

Petitioner has further included a copy of a screenshot of the "Posz Law Group Case Tracking System," which serves as the docket record where the non-received Office communication would have been entered and docketed, however **the copy of the docket record that was provided is not legible**. The copy is rather dark, and the text that appears within the same cannot be discerned. As such, it does not appear that the copy that Petitioner has submitted is electronically reproducible. A copy of the submission as it appears in the electronic file has been included with this decision.

Decision on Petition pursuant to 37 C.F.R. § 1.181(a)

It follows that the present petition must be **DISMISSED**.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁵. **On renewed petition, Petitioner may wish to consider submitting a lighter copy of this docket record.**

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225⁶. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Copy of docket record as it appears in the electronic file

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number.

5 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HAGANO	Atty. Dkt.: 26D-010-RCE
Serial No.: 10/622,776	Group Art Unit: 1751
Filed: July 21, 2003	Examiner: Mark Kopeć
Title: RESIN MEMBER AND METHOD OF MANUFACTURING THE SAME	Date of Allowance: January 24, 2007 Confirmation No.: 4241
Attn: PETITIONS BRANCH Commissioner for Patents Alexandria, VA 22314	
Date: June 13, 2007	

EXHIBIT A
Posz Law Group Case Tracking System

The Notice of Allowance would have been entered here if it had been received and docketed.

Copy of docket record as it appears in the electronic file

Copy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HAGANO

Serial No.: 10/622,776

Filed: July 21, 2003

Title: RESIN MEMBER AND METHOD OF
MANUFACTURING THE SAME



Atty. Dkt.: 26D-010-RCE

Group Art Unit: 1751

Examiner: Mark Kopec

Date of Allowance: January 24, 2007

Confirmation No.: 4241

Attn: OFFICE OF PETITIONS

Commissioner for Patents

Alexandria, VA 22314

Date: June 13, 2007

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 571-273-8300 on June 13, 2007.

Typed Name: DAVID G. POSZ

Signature: 

**PETITION UNDER 37 C.F.R. 1.181(a) FOR RE-MAILING OF NOTICE OF
ALLOWANCE AND RE-START OF ISSUE FEE DUE DATE**

Sir:

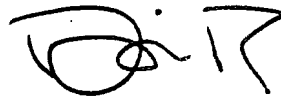
This Request is being filed in response to the undersigned receiving a Notice of Abandonment on May 25, 2007 in connection with the above application.

Upon receiving the Notice of Abandonment, the undersigned checked the U.S. Patent Office's online PAIR system and determined that a Notice of Allowance was allegedly mailed in connection with the above application on or around January 24, 2007. However, after thoroughly reviewing the firm's docketing records and Incoming Mail Log (copies of which are attached per MPEP 711.03(c)(IA) as Exhibits A and B) for the application, as well as the application file itself, the undersigned has determined that the Notice of Allowance was never received.

Copy

In view of the above remarks and the attached exhibits, Applicant respectfully asserts that a Notice of Allowance with a mail date of January 24, 2007 was never received, and petitions that the U.S. Patent Office re-mail the Notice of Allowance and re-start the three-month issue fee payment due date. Although no additional fees are believed to be due, authorization is hereby given to charge any unforeseen fees to deposit account 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. G. Posz', with a stylized flourish at the end.

David G. Posz
Reg. No. 37,701

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
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Customer No. 23400

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HAGANO

Atty. Dkt.: 26D-010-RCE

Serial No.: 10/622,776

Group Art Unit: 1751

Filed: July 21, 2003

Examiner: Mark Kopec

Title: RESIN MEMBER AND METHOD OF
MANUFACTURING THE SAME

Date of Allowance: January 24, 2007
Confirmation No.: 4241

Attn: PETITIONS BRANCH
Commissioner for Patents
Alexandria, VA 22314

Date: September 20, 2007

EXHIBIT A Posz Law Group Case Tracking System

U.S. Patent Case More Data (Record Locked to allow your updates)

Docket No: 26D-010-RCE

Missing Parts Mailed: <input type="text"/> Received PostCard <input type="checkbox"/> Due: <input type="text"/> Sent: <input type="text"/>		Foreign Filing Due Date: <input type="text"/> CRS <input type="checkbox"/> No Filing Planned <input type="checkbox"/> Date Filed: <input type="text"/>	Inventors <input type="button" value="List"/> 1 <input type="text"/> 2 <input type="text"/> 3 <input type="text"/> 4 <input type="text"/> 5 <input type="text"/> 6 <input type="text"/> 7 <input type="text"/> 8 <input type="text"/> 9 <input type="text"/> 10 <input type="text"/>																																				
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Other Adjustments to the Patent Term
☒ PTO Delay ☐ Applicant Delay
 Name:
 Start Date: End Date:
☐ Change Small Entity Status to Large Entity for this case only
☐ Reviewed PTA of Allowed Application
☐ Reviewed PTA of Issued Patent
 Next Office Action Expected: 12/17/2007

The Notice of Allowance would have been entered here if it had been received and docketed.

POSZ LAW GROUP, PLC

ATTORNEYS AT LAW

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SPECIALIZING IN PATENTS, TRADEMARKS & COPYRIGHTS

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TETSU YOSHIDA +

** PATENT AGENT
+ JAPANESE PATENT ATTORNEY
ADMITTED ONLY IN JAPAN

* NOT ADMITTED IN VIRGINIA
PRACTICE LIMITED TO FEDERAL PATENT,
TRADEMARK AND COPYRIGHT MATTERS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HAGANO	Atty. Dkt.: 26D-010-RCE
Serial No.: 10/622,776	Group Art Unit: 1751
Filed: July 21, 2003	Examiner: Mark Kopec
Title: RESIN MEMBER AND METHOD OF MANUFACTURING THE SAME	Date of Allowance: January 24, 2007 Confirmation No.: 4241
Attn: PETITIONS BRANCH Commissioner for Patents Alexandria, VA 22314	
Date: June 13, 2007	

EXHIBIT B USPTO INCOMING LOG PAGES DATED January 25, 26, 29 (2 pp.), & 30 2007

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Date:

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WHAT / CASE #	DATE MAILED FROM USPTO	DATE DUE	NOTES
OFFICE ACTIONS			
VX 052702	1-23	7-23	TM O.A. TV
Q6B-057	1-23	4-23	B
Q6L-003	1-23	4-23	FINAL BB
N. OF ALLOWANCE			
14. 043	1-23	4-23	
02. 114	1-23	4-23	
01. 637	1-23	4-23	
RESTRICTION REQ.			
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01. 306! DIV	1/23	2/2	IW

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01. 679	1-24	4-24	
27. 033	1-24	2-24	ACCELERATED
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10 X. 406	1-24	4-24	
VX022451 B	1-24	4-24	FINAL
N. OF ALLOWANCE			
15-069	1-24	4-24	
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26 B. 020. CON	1-25	4-25	FINAL
26 A. 018	1-25	4-25	
11. 281	1-25	4-25	
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26 C. 038. TN	1-25	4/25/07	O.A. ALREADY ISSUED 11/15/06
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10. 055	1-25	3-25	
10. 07 NON. COMPL.			
10. 057	1-25	2-25	

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OFFICE ACTIONS			
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✓ 06-008	1	1	hiz
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✓ 1-895TB	1	1	
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✓ 527-002 Ext. Reg. App.	1/25/07	N/A	B
✓ 527-004 "	1		B

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